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**Introduced by Senator Anderson**

February 3, 2014

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An act to amend Section 647 of the Penal Code, relating to disorderly conduct.

LEGISLATIVE COUNSEL'S DIGEST

SB 933, as introduced, Anderson. Disorderly conduct.

Existing law provides that a person is guilty of disorderly conduct, a misdemeanor, based on various acts, including when a person solicits or agrees to engage in or engages in any act of prostitution, as specified.

This bill would make technical, nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 647 of the Penal Code is amended to  
2     read:

3     647. Except as provided in subdivision (l), ~~every~~ a person who  
4     commits any of the following acts is guilty of disorderly conduct,  
5     a misdemeanor:

6     (a) Who solicits anyone to engage in or who engages in lewd  
7     or dissolute conduct in any public place or in any place open to  
8     the public or exposed to public view.

9     (b) Who solicits or who agrees to engage in or who engages in  
10    any act of prostitution. A person agrees to engage in an act of  
11    prostitution when, with specific intent to so engage, he or she  
12    manifests an acceptance of an offer or solicitation to so engage,

1 regardless of whether the offer or solicitation was made by a person  
2 who also possessed the specific intent to engage in prostitution.  
3 No agreement to engage in an act of prostitution shall constitute  
4 a violation of this subdivision unless some act, in addition to the  
5 agreement, is done within this state in furtherance of the  
6 commission of an act of prostitution by the person agreeing to  
7 engage in that act. As used in this subdivision, “prostitution”  
8 includes any lewd act between persons for money or other  
9 consideration.

10 (c) Who accosts other persons in any public place or in any  
11 place open to the public for the purpose of begging or soliciting  
12 alms.

13 (d) Who loiters in or about any toilet open to the public for the  
14 purpose of engaging in or soliciting any lewd or lascivious or any  
15 unlawful act.

16 (e) Who lodges in any building, structure, vehicle, or place,  
17 whether public or private, without the permission of the owner or  
18 person entitled to the possession or in control of it.

19 (f) Who is found in any public place under the influence of  
20 intoxicating liquor, any drug, controlled substance, toluene, or any  
21 combination of any intoxicating liquor, drug, controlled substance,  
22 or toluene, in a condition that he or she is unable to exercise care  
23 for his or her own safety or the safety of others, or by reason of  
24 his or her being under the influence of intoxicating liquor, any  
25 drug, controlled substance, toluene, or any combination of any  
26 intoxicating liquor, drug, or toluene, interferes with or obstructs  
27 or prevents the free use of any street, sidewalk, or other public  
28 way.

29 (g) When a person has violated subdivision (f), a peace officer,  
30 if he or she is reasonably able to do so, shall place the person, or  
31 cause him or her to be placed, in civil protective custody. The  
32 person shall be taken to a facility, designated pursuant to Section  
33 5170 of the Welfare and Institutions Code, for the 72-hour  
34 treatment and evaluation of inebriates. A peace officer may place  
35 a person in civil protective custody with that kind and degree of  
36 force which would be lawful were he or she effecting an arrest for  
37 a misdemeanor without a warrant. A person who has been placed  
38 in civil protective custody shall not thereafter be subject to any  
39 criminal prosecution or juvenile court proceeding based on the

1 facts giving rise to this placement. This subdivision shall not apply  
2 to the following persons:

3 (1) Any person who is under the influence of any drug, or under  
4 the combined influence of intoxicating liquor and any drug.

5 (2) Any person who a peace officer has probable cause to believe  
6 has committed any felony, or who has committed any misdemeanor  
7 in addition to subdivision (f).

8 (3) Any person who a peace officer in good faith believes will  
9 attempt escape or will be unreasonably difficult for medical  
10 personnel to control.

11 (h) Who loiters, prowls, or wanders upon the private property  
12 of another, at any time, without visible or lawful business with the  
13 owner or occupant. As used in this subdivision, “loiter” means to  
14 delay or linger without a lawful purpose for being on the property  
15 and for the purpose of committing a crime as opportunity may be  
16 discovered.

17 (i) Who, while loitering, prowling, or wandering upon the private  
18 property of another, at any time, peeks in the door or window of  
19 any inhabited building or structure, without visible or lawful  
20 business with the owner or occupant.

21 (j) (1) Any person who looks through a hole or opening, into,  
22 or otherwise views, by means of any instrumentality, including,  
23 but not limited to, a periscope, telescope, binoculars, camera,  
24 motion picture camera, camcorder, or mobile phone, the interior  
25 of a bedroom, bathroom, changing room, fitting room, dressing  
26 room, or tanning booth, or the interior of any other area in which  
27 the occupant has a reasonable expectation of privacy, with the  
28 intent to invade the privacy of a person or persons inside. This  
29 subdivision shall not apply to those areas of a private business  
30 used to count currency or other negotiable instruments.

31 (2) Any person who uses a concealed camcorder, motion picture  
32 camera, or photographic camera of any type, to secretly videotape,  
33 film, photograph, or record by electronic means, another,  
34 identifiable person under or through the clothing being worn by  
35 that other person, for the purpose of viewing the body of, or the  
36 undergarments worn by, that other person, without the consent or  
37 knowledge of that other person, with the intent to arouse, appeal  
38 to, or gratify the lust, passions, or sexual desires of that person and  
39 invade the privacy of that other person, under circumstances in  
40 which the other person has a reasonable expectation of privacy.

(3) (A) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(4) (A) Any person who photographs or records by any means the image of the intimate body part or parts of another identifiable person, under circumstances where the parties agree or understand that the image shall remain private, and the person subsequently distributes the image taken, with the intent to cause serious emotional distress, and the depicted person suffers serious emotional distress.

(B) As used in this paragraph, intimate body part means any portion of the genitals, and in the case of a female, also includes any portion of the breasts below the top of the areola, that is either uncovered or visible through less than fully opaque clothing.

(C) Nothing in this subdivision precludes punishment under any section of law providing for greater punishment.

(k) (1) In any accusatory pleading charging a violation of subdivision (b), if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading. If the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than

1 45 days in a county jail. In all cases in which probation is granted,  
2 the court shall require as a condition thereof that the person be  
3 confined in a county jail for at least 45 days. In no event does the  
4 court have the power to absolve a person who violates this  
5 subdivision from the obligation of spending at least 45 days in  
6 confinement in a county jail.

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8 (2) *In* any accusatory pleading charging a violation of  
9 subdivision (b), if the defendant has been previously convicted  
10 two or more times of a violation of that subdivision, each of these  
11 previous convictions shall be charged in the accusatory pleading.  
12 If two or more of these previous convictions are found to be true  
13 by the jury, upon a jury trial, or by the court, upon a court trial, or  
14 are admitted by the defendant, the defendant shall be imprisoned  
15 in a county jail for a period of not less than 90 days and shall not  
16 be eligible for release upon completion of sentence, on probation,  
17 on parole, on work furlough or work release, or on any other basis  
18 until he or she has served a period of not less than 90 days in a  
19 county jail. In all cases in which probation is granted, the court  
20 shall require as a condition thereof that the person be confined in  
21 a county jail for at least 90 days. In no event does the court have  
22 the power to absolve a person who violates this subdivision from  
23 the obligation of spending at least 90 days in confinement in a  
24 county jail.

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26 (3) *In* addition to any punishment prescribed by this section, a  
27 court may suspend, for not more than 30 days, the privilege of the  
28 person to operate a motor vehicle pursuant to Section 13201.5 of  
29 the Vehicle Code for any violation of subdivision (b) that was  
30 committed within 1,000 feet of a private residence and with the  
31 use of a vehicle. In lieu of the suspension, the court may order a  
32 person's privilege to operate a motor vehicle restricted, for not  
33 more than six months, to necessary travel to and from the person's  
34 place of employment or education. If driving a motor vehicle is  
35 necessary to perform the duties of the person's employment, the  
36 court may also allow the person to drive in that person's scope of  
37 employment.

38 (l) (1) A second or subsequent violation of subdivision (j) is  
39 punishable by imprisonment in a county jail not exceeding one

1 year, or by a fine not exceeding two thousand dollars (\$2,000), or  
2 by both that fine and imprisonment.  
3 (2) If the victim of a violation of subdivision (j) was a minor at  
4 the time of the offense, the violation is punishable by imprisonment  
5 in a county jail not exceeding one year, or by a fine not exceeding  
6 two thousand dollars (\$2,000), or by both that fine and  
7 imprisonment.

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